

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**EDWINA KOLBINKSIE F/K/A  
EDWINA R. SANCHEZ,**

*Plaintiff,*

**V.**

**DITECH FINANCIAL LLC F/K/A  
GREEN TREE SERVICING, LLC**

***Defendant.***



**CIVIL ACTION NO.** \_\_\_\_\_

## **NOTICE OF REMOVAL**

Defendant Ditech Financial LLC f/k/a Green Tree Servicing, LLC, (“Ditech”) files this Notice of Removal pursuant to diversity jurisdiction under 28 U.S.C. § 1332.

## I. INTRODUCTION

1. On September 4, 2018 Plaintiff Edwina Kolbinksie (“Plaintiffs”) filed her Original Petition, Application for Temporary Restraining Order, Temporary Injunction and for Permanent Injunction (the “Petition”) in the 57th Judicial District Court of Bexar County, Texas under Cause No. 2018CI16738.<sup>1</sup>

2. In the Petition, Plaintiff asserts claims against Defendant for fraud and breach of the duty of good faith and fair dealing relating to the real property located at 5734 Charlie Chan Drive, San Antonio, Texas 78240 (the “Property”). Plaintiff seeks injunctive relief preventing foreclosure of the Property and attorneys’ fees.

<sup>1</sup> **Exhibit A.**

3. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, orders, and other papers filed in the state court action and obtained by Defendant are attached hereto and marked as **Exhibit A**.

## **II. TIMELINESS OF REMOVAL**

4. This suit was filed on September 4, 2018 and Defendant Ditech has not been served. This Notice of Removal is therefore timely.

## **III. BASIS FOR REMOVAL: DIVERSITY JURISDICTION**

5. This Court has original jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1332 (diversity jurisdiction). The requirements for diversity jurisdiction are met in this case, as the Plaintiff and Defendant are completely diverse in citizenship and the amount in controversy, exclusive of interests and costs, exceeds \$75,000.00.

### ***A. Complete Diversity Exists.***

6. Plaintiff is a citizen of Texas, residing in Bexar County, Texas.<sup>2</sup>

7. Ditech is a Delaware limited liability company with its principal office located in Fort Washington, Pennsylvania. For diversity purposes, the citizenship of a limited liability company is determined by the citizenship of its members.<sup>3</sup> The members of Ditech are Walter Management Holding Company LLC, a Delaware limited liability company with its principal office in Pennsylvania and Green Tree Servicing Corp., a Delaware corporation with its principal office in Pennsylvania. The sole member of Walter Management Holding Company LLC is Green Tree Credit Solutions LLC, a Delaware limited liability company with its principal office located in Pennsylvania. The sole member of Green Tree Credit Solutions LLC is Ditech Holding

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<sup>2</sup> See Petition at ¶ 2.

<sup>3</sup> *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

Corporation, a Maryland corporation with its principal office located in Fort Washington, Pennsylvania. Therefore, Ditech is a citizen of Delaware, Pennsylvania and Maryland for diversity purposes.

8. Because Plaintiff is a citizen of Texas, and Ditech is a citizen of Delaware, Pennsylvania and Maryland, complete diversity of the Parties exists.

***B. The Amount in Controversy Exceeds \$75,000.00.***

9. In the Petition, Plaintiff seeks injunctive relief to enjoin Ditech from taking any action to foreclose on the Property.<sup>4</sup> When such relief is sought, the amount in controversy is measured by the value of the object of the litigation.<sup>5</sup> When the object of the mortgagors' litigation is the protection of their entire property, the fair market value of the property is the proper measure of the amount in controversy.<sup>6</sup> Here, the value of the Property is at least \$244,230.00.<sup>7</sup> Therefore, based on the value of the injunctive relief sought by Plaintiff, the amount in controversy exceeds \$75,000.00 and removal is proper.

**IV.  
VENUE**

10. Venue is proper in the Western District of Texas, San Antonio Division pursuant to 28 U.S.C. § 1441(a) because Bexar County, Texas is located within this District and cases arising from Bexar County, Texas are properly assigned to the Western District of Texas.<sup>8</sup>

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<sup>4</sup> See First Am. Pet. at ¶¶ 22-25.

<sup>5</sup> Farkas v. GMAC Mortg., LLC, 737 F.3d 338, 341 (5th Cir. 2013).

<sup>6</sup> *Id.*

<sup>7</sup> See Bexar County Appraisal District Summary, attached as **Exhibit B**. It is appropriate for the Court to take judicial notice of the Bexar County Tax Appraisal because it is a public record and the information it provides is readily ascertainable and the source – the Bexar County Tax Appraisal District – cannot reasonably be questioned. See Funk v. Snyder, 631 F.3d 777, 783 (5th Cir. 2011).

<sup>8</sup> 28 U.S.C. § 124(d)(4).

V.  
**ADDITIONAL REQUIREMENTS**

11. Plaintiff demanded a jury trial in her Original Petition.

12. Written notice of removal will be provided to Plaintiff and filed with the County Clerk of Bexar County, Texas contemporaneously with this pleading.

Having satisfied the requirements for removal under 28 U.S.C. §§ 1331 and 1332, Defendant gives notice that Cause No. 2018CI16738, now pending in the 57th Judicial Court of Bexar County, Texas, has been removed to this Court.

Respectfully submitted,

**Bradley**

By: /s/ S. David Smith

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**CERTIFICATE OF SERVICE**

I certify that on this 8th day of February, 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. I further certify that a true and correct copy of the foregoing has been served on all counsel of record as follows:

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